

Company for \$5,000. On December 21, 1954, he purchased 50 shares of substantially identical stock for \$2,750, and on December 27, 1954, he purchased 25 additional shares of such stock for \$1,125. On January 3, 1955, he sold for \$4,000 the 100 shares purchased on September 21, 1954. There is an indicated loss of \$1,000 on the sale of the 100 shares. Since, within the 61-day period, A purchased 75 shares of substantially identical stock, the loss on the sale of 75 of the shares (\$3,750—\$3,000, or \$750) is not allowable as a deduction because of the provisions of section 1091. The loss on the sale of the remaining 25 shares (\$1,250—\$1,000, or \$250) is deductible subject to the limitations provided in sections 267 and 1211. The basis of the 50 shares purchased December 21, 1954, the acquisition of which resulted in the nondeductibility of the loss (\$500) sustained on 50 of the 100 shares sold on January 3, 1955, is \$2,500 (the cost of 50 of the shares sold on January 3, 1955) + \$750 (the difference between the purchase price (\$2,750) of the 50 shares acquired on December 21, 1954, and the selling price (\$2,000) of 50 of the shares sold on January 3, 1955), or \$3,250. Similarly, the basis of the 25 shares purchased on December 27, 1954, the acquisition of which resulted in the nondeductibility of the loss (\$250) sustained on 25 of the shares sold on January 3, 1955, is \$1,250+\$125, or \$1,375. See § 1.1091-2.

Example 3. A, whose taxable year is the calendar year, on September 15, 1954, purchased 100 shares of the stock of the M Company for \$5,000. He sold these shares on February 1, 1956, for \$4,000. On each of the four days from February 15, 1956, to February 18, 1956, inclusive, he purchased 50 shares of substantially identical stock for \$2,000. There is an indicated loss of \$1,000 from the sale of the 100 shares on February 1, 1956, but, since within the 61-day period A purchased not less than 100 shares of substantially identical stock, the loss is not deductible. The particular shares of stock the purchase of which resulted in the nondeductibility of the loss are the first 100 shares purchased within such period, that is, the 50 shares purchased on February 15, 1956, and the 50 shares purchased on February 16, 1956. In determining the period for which the 50 shares purchased on February 15, 1956, and the 50 shares purchased on February 16, 1956, were held, there is to be included the period for which the 100 shares purchased on September 15, 1954, and sold on February 1, 1956, were held.

[T.D. 6500, 25 FR 11910, Nov. 26, 1960, as amended by T.D. 6926, 32 FR 11468, Aug. 9, 1967]

§ 1.1091-2 Basis of stock or securities acquired in “wash sales”.

(a) *In general.* The application of section 1091(d) may be illustrated by the following examples:

Example 1. A purchased a share of common stock of the X Corporation for \$100 in 1935, which he sold January 15, 1955, for \$80. On February 1, 1955, he purchased a share of common stock of the same corporation for \$90. No loss from the sale is recognized under section 1091. The basis of the new share is \$110; that is, the basis of the old share (\$100) increased by \$10, the excess of the price at which the new share was acquired (\$90) over the price at which the old share was sold (\$80).

Example 2. A purchased a share of common stock of the Y Corporation for \$100 in 1935, which he sold January 15, 1955, for \$80. On February 1, 1955, he purchased a share of common stock of the same corporation for \$70. No loss from the sale is recognized under section 1091. The basis of the new share is \$90; that is, the basis of the old share (\$100) decreased by \$10, the excess of the price at which the old share was sold (\$80) over the price at which the new share was acquired (\$70).

(b) *Special rule.* For a special rule as to the adjustment to basis required under section 1091(d) in the case of wash sales involving certain regulated investment company stock for which there is an average basis, see paragraph (e)(3)(iii) (c) and (d) of § 1.1012-1.

[T.D. 6500, 25 FR 11910, Nov. 26, 1960, as amended by T.D. 7129, 36 FR 12738, July 7, 1971]

§ 1.1092(b)-1T Coordination of loss deferral rules and wash sale rules (temporary).

(a) *In general.* Except as otherwise provided, in the case of the disposition of a position or positions of a straddle, the rules of paragraph (a)(1) of this section apply before the application of the rules of paragraph (a)(2) of this section.

(1) Any loss sustained from the disposition of shares of stock or securities that constitute positions of a straddle shall not be taken into account for purposes of this subtitle if, within a period beginning 30 days before the date of such disposition and ending 30 days after such date, the taxpayer has acquired (by purchase or by an exchange